

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 689

To amend the National Labor Relations Act to provide for fair and expeditious representation elections.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 1993

Mr. OWENS introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the National Labor Relations Act to provide for fair and expeditious representation elections.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Labor Rela-  
5       tions Fair Elections Act”.

6       **SEC. 2. REFERENCE TO NATIONAL LABOR RELATIONS ACT.**

7       Whenever in this Act an amendment or repeal is ex-  
8       pressed in terms of an amendment to, or repeal of, a sec-  
9       tion or other provision, the reference shall be considered

1 to be made to a section or other provision of the National  
2 Labor Relations Act (29 U.S.C. 151 et seq.).

3 **SEC. 3. REPRESENTATIVES AND ELECTIONS.**

4 (a) IN GENERAL.—Section 9(c) (29 U.S.C. 159(c))  
5 is amended by adding at the end thereof the following new  
6 paragraphs:

7 “(6)(A) Notwithstanding any other provision of this  
8 section, the Board shall conduct an investigation whenever  
9 a petition is filed by an employee or group of employees  
10 (or any individual or labor organization acting in their be-  
11 half) alleging that—

12 “(i) 75 percent of the employees in a unit ap-  
13 propriate for purposes of collective bargaining  
14 (under a rule established by the Board pursuant to  
15 section 6 or a decision in the applicable industry)  
16 have, by signing authorization cards, designated an  
17 individual or labor organization as their representa-  
18 tive as defined in subsection (a), and

19 “(ii) no individual or labor organization is  
20 currently certified or recognized as the exclusive rep-  
21 resentative of any of the employees in such unit.

22 “(B) If the Board finds that the allegations specified  
23 in the petition filed pursuant to subparagraph (A) are ac-  
24 curate, the Board shall, within 15 days after the filing  
25 of the petition, issue an order certifying such individual

1 or organization as the representative as defined in sub-  
2 section (a).

3       “(7)(A) Notwithstanding any other provisions of sec-  
4 tion 9, whenever a petition shall have been filed, in accord-  
5 ance with such regulations as may be prescribed by the  
6 Board, by an employee or group of employees or any indi-  
7 vidual or labor organization acting in their behalf alleging  
8 that their employer declines to recognize their representa-  
9 tive as the representative defined in subsection (a) in a  
10 unit appropriate for the purposes of collective bargaining  
11 under a rule established by the Board pursuant to section  
12 6 or a decision in the applicable industry, that a majority  
13 of the employees in that unit have designated that individ-  
14 ual or labor organization as their representative defined  
15 in subsection (a), and that no individual or labor organiza-  
16 tion is currently certified or recognized as the exclusive  
17 representative of any of the employees in the bargaining  
18 unit defined in the petition, the Board shall investigate  
19 such petition. If the Board finds that the unit there speci-  
20 fied is a unit appropriate for the purposes of collective bar-  
21 gaining under a rule established by the Board pursuant  
22 to section 6 or a decision in the applicable industry, and  
23 if the Board has reasonable cause to believe that a ques-  
24 tion of representation affecting commerce exists and that  
25 the other conditions specified in this subsection have been

1 met, the Board shall within seven days after the filing of  
2 the petition direct an election by secret ballot not more  
3 than 15 days after a petition is filed under this subpara-  
4 graph and shall so notify the representative named in the  
5 petition and the employer.

6 “(B) In any proceeding under this subsection in  
7 which the Board directs an election by secret ballot, and  
8 which is not governed by subparagraph (A) of this para-  
9 graph, the Board shall direct the election on a date not  
10 more than 45 days after the filing of the petition and shall  
11 inform the representatives named in the petition, the em-  
12 ployer, and all other interested parties of the election date  
13 not less than 15 days prior to the election except that,  
14 where the Board determines that the proceeding presents  
15 issues of exceptional novelty or complexity, the Board may  
16 direct the election on a date not more than 75 days after  
17 the filing of said petition.

18 “(C) After an election conducted pursuant to sub-  
19 paragraph (A) or (B) of this paragraph is completed, the  
20 Board shall promptly serve the parties with a tally of the  
21 ballots.

22 “(D)(i) Any party to the election conducted pursuant  
23 to subparagraphs (A) and (B) of this paragraph may,  
24 within five days after such election, object to the election  
25 on the ground that conduct contrary to a rule relating to

1 election declared by the Board pursuant to its authority  
2 under section 6 or conduct contrary to a rule of decision  
3 declared by the Board in a proceeding under section 10  
4 did affect the result of the election.

5 “(ii) With regard to challenged ballots, the Board  
6 shall, where such ballots are sufficient in number to affect  
7 the outcome of the election, investigate the challenges and  
8 serve a report upon the parties on challenges.

9 “(iii) The Board shall move expeditiously to resolve  
10 any issues raised by the objections or regarding eligibility  
11 and to certify the results of the election: *Provided*, That  
12 an objection that an election was conducted under sub-  
13 paragraph (A) instead of subparagraph (B) shall not be  
14 a basis for setting the election aside.”.

15 **SEC. 4. AUTHORITY OF BOARD.**

16 Section 6 (29 U.S.C. 156) is amended to read as fol-  
17 lows:

18 “SEC. 6. (a) The Board is authorized to make,  
19 amend, and rescind (in the manner prescribed by sub-  
20 chapter II of chapter 5 of title 5, United States Code)  
21 such rules and regulations as may be necessary to carry  
22 out the provisions of this Act.

23 “(b)(1) The Board shall, within 12 months after the  
24 date of enactment of the National Labor Relations Fair

1 Elections Act, issue regulations to implement the provi-  
2 sions of section 9(c)(7) including rules—

3       “(A) which shall, subject to reasonable condi-  
4 tions, including due regard for the needs of the em-  
5 ployer to maintain the continuity of production, as-  
6 sure that if an employer or employer representative  
7 addresses the employees on its premises or during  
8 working time on issues relating to representation by  
9 a labor organization during a period of time that  
10 employees are seeking representation by a labor or-  
11 ganization, the employees shall be assured an equal  
12 opportunity to obtain in an equivalent manner infor-  
13 mation concerning such issues from such labor orga-  
14 nization;

15       “(B) for classes of cases in which either the dis-  
16 tance from the Board’s regional office to the election  
17 site or the number of employees involved in the elec-  
18 tion makes it infeasible to comply with the time lim-  
19 its stated in section 9(c)(7)(A), to extend to a maxi-  
20 mum of 14 days the period for directing an election  
21 stated in that subsection, and to a maximum of 21  
22 days the period for the holding of such an election  
23 stated in that subsection;

24       “(C) to facilitate agreements concerning the eli-  
25 gibility of voters; and

1           “(D) to govern the holding of elections in cases  
2           in which an appeal has not been decided prior to the  
3           date of the election.

4           “(2) The Board shall, to the fullest extent prac-  
5           ticable, exercise its authority under subsection (a) of this  
6           section to promulgate rules declaring certain units to be  
7           appropriate for the purposes of collective bargaining.

8           “(3) A rule or regulation issued by the Board with  
9           respect to the subject matter set forth in paragraph (1)  
10          or (2) of this subsection shall be judicially reviewable only  
11          in a proceeding under section 10 of this Act and only on  
12          the grounds that the Board prejudicially violated the re-  
13          quirements of subchapter II of chapter 5 of title 5, United  
14          States Code, or that a rule or regulation of the Board is  
15          arbitrary or capricious, contrary to a specific prohibition  
16          of this Act, or of the Constitution. The failure of the  
17          Board to comply with the time requirements set forth in  
18          paragraph (1) of this subsection, or to institute a rule-  
19          making proceeding with respect to the subject matter set  
20          forth in paragraph (2) of this subsection, within a reason-  
21          able period of time after a request for such a rulemaking  
22          procedure has been filed with the Board pursuant to sec-  
23          tion 553(e) of title 5, United States Code, or to complete  
24          such a procedure within a reasonable period after its insti-  
25          tution, may be reviewed at the behest of any aggrieved

1 party only in the United States Court of Appeals for the  
2 District of Columbia Circuit. The United States Court of  
3 Appeals for the District of Columbia Circuit shall have  
4 jurisdiction to grant appropriate relief.”.

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